IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 10948 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NIRAJ DHARMADAS LULA & 3 - Applicant(s)
Versus
THE STATA OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR AS VAKIL for Applicant(s) : 1 - 4.
Mr SS Patel, Addl.PUBLIC PROSECUTOR for Respondent(s) : 1,
MR KIRTIDEV R DAVE for Respondent(s) : 2,
MR RAHUL K DAVE for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 23/02/2007

ORAL JUDGMENT

1. The petitioner-husband, his widowed mother and two sisters, have approached this Court under section 482 of the Code of Criminal Procedure, 1973

for quashing FIR No.1533 of 2006 registered as C.R.-I. No.471 of 2006 lodged by his wife in Anjar/Gandhidham police station for the alleged offence under sections 498A and 114 of Indian Penal Code and sections 4 and 5 of the Dowry Prohibition Act, 1961. It is the case, generally, of the petitioners that the respondent-wife has been filing one after the other proceedings against the petitioners to harass them and recover money by way of maintenance even as she was not prepared to return to her matrimonial home.

2. Upon issuance of notice and admission of the petition, learned counsel Mr Kirtidev R. Dave has appeared for the original complainant-wife and submitted that the complainant was subjected to such treatment in her matrimonial home that she was forced to leave that house and by her experience within two months of her married life at the age of 24, she was unwilling to return to her matrimonial home.

3. Learned counsel on both sides made sincere efforts to explore the possibility of an amicable

settlement and the parties were personally called in the court to negotiate and see whether reconciliation was possible. However, not only the learned counsel but the husband and wife, were both absolutely clear and firm about their desire not to live together and it was clearly stated at the bar that the marriage had irretrievably broken down. It was, therefore, jointly submitted that the parties would rather make an appropriate application for dissolution of marriage by consent and withdraw and wind up all the other criminal proceedings. It was agreed by the parties, and statement on that basis was made by the respective learned counsel, on instruction, and in presence of the parties, that all the complaints, criminal proceedings and applications for maintenance or recovery thereof shall be withdrawn; that petitioner No.1 shall pay to respondent no.2 a sum of Rs. 25,000/- (Rupees Twenty five thousand only) on or before 30.3.2007 towards maintenance and arrears and part-payment of the overall amount agreed to be paid; and the parties shall initiate appropriate legal proceedings for the earliest possible dissolution of marriage by consent. During the period of such

proceedings and on condition of the marriage being dissolved, the petitioner No.1 shall pay to respondent no.2, an additional amount of Rs.1,75,000/- (Rupees One lakh seventy five thousand only) towards full and final settlement of all the claims of respondent no.2 arising from the marriage between petitioner no.1 and respondent no.2. It was agreed and further clarified that having regard to the financial position of petitioner No.1 and requirement of collecting sufficient funds, he would make final payment of Rs. 1,75,000/- latest by 15.9.2007 or the date on which the marriage is dissolved, whichever is later. It was also agreed that even as respondent No.2 shall withdraw all the cases and legal proceedings initiated by her against the petitioner No.1, all the actual legal expenses (excluding legal fee to be paid by respondent No.2) of further litigation for obtaining a decree of divorce or dissolving the marriage, shall be borne by petitioner No.1. It was also agreed and clarified that the dispute regarding exchange of ornaments and miscellaneous articles was resolved in principle and the details of such articles to be returned by the

petitioner No.1 to respondent No.2 and by respondent No.2 to petitioner No.1 shall be smoothly worked out under supervision of the learned counsel.

4. On the understanding recorded hereinabove, learned counsel for the parties jointly requested to allow the present petition so as to quash the proceedings pursuant to the aforesaid FIR registered as C.R.-I No.471 of 2006. Accordingly that FIR and the proceedings pursuant thereto are quashed. Rule is made absolute accordingly with no order as to costs.

sd/-

[D. H. Waghela, J.]

msp